Supreme Court, U.S.
FILED

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No.

In the Supreme Court of the United States

RADA BIDOAE,

Petitioner

v.

HARTFORD GOLF CLUB ET AL.,

Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF CONNECTICUT

PETITION FOR A WRIT OF CERTIORARI

AAAA LEGAL SERVICES
NEIL JOHNSON, ESQ.
COUNSEL OF RECORD
96 WEBSTER STREET
HARTFORD, CT. 06114
(860) 278-0468

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QUESTIONS PRESENTED

The questions presented here are:

Whether the Connecticut Appellate Court violated the United States Constitution when it ruled contrary to statute that the Connecticut Workers Compensation Commission using its equitable powers has the power to order a vocational examination with a non physician and sanction the claimant for refusal to comply.

Whether the determination of disability by an Administrative Law Judge granting Social Security Benefits has collateral estoppel or persuasive affect on proceedings in a state Workers Compensation claim when the work injury was the substantial factor in causing the disability.

PARTIES TO THE PROCEEDING

The Caption of the Case Contained on the cover sheet to this Petition contains the name of all parties to the proceedings in this court. There are no parent companies or non-wholly owned subsidiaries of the Petitioner, Rada Bidoae.

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PETITION FOR WRIT OF CERTIORARI

Attorney Neil Johnson respectfully prays that a writ of certiorari issue to review the judgement and opinion of the Appellate Court of the State of Connecticut Entered in this proceeding on September 20, 2005 which the Supreme Court of Connecticut denied review on November 9, 2005, in order to resolve the conflict between the Connecticut Courts and the United States Constitution on the important issue presented herein.

OPINIONS BELOW

The order of the Connecticut Supreme Court (Appendix A1) is reported at 276 Conn. 921; 888 A.2d 87 (2005). The opinion of the Connecticut Appellate Court (Appendix A2) is reported at 91 Conn. App. 470; 881 A.2d 418 (2005). The opinion of the Connecticut Compensation Review Board (Appendix A18) is unreported. The opinion of the Connecticut Workers Compensation Commission (Appendix A25) is unreported. Finding and Order of the Connecticut Workers Compensation Commission RE: Vocational Examination (Appendix A31) is unreported.

JURISDICTION

On September 20, 2005, the Appellate Court issued its decision holding that a Workers Compensation Claimant is required to undergo an examination by a non-physician. On November 9, 2005 the Connecticut Supreme Court denied the Petitioners Petition for Review making the Appellate Court the Highest Court in the State in which a decision may be had and the Petitioner's only course of action is to appeal to the United States Supreme Court. *U.S. ex. Rel. Corrono v. Richmond* 177 F. Supp. 504 (1959). Pursuant to Supreme

Court Rule 13.1, this petition has been filed within 90 days of the entry of the Connecticut Supreme Courts denial of review.

The jurisdiction of the Court is invoked pursuant to 28 U.S.C. Section 1257.

STATUTES INVOLVED IN THIS CASE

Title 28 of the United States Code, Section 1257(a) provides in part:

> (a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validly of a treaty or statute of the United States is drawn in question or where the validity of a statue of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of , or any commission held or authority exercised under the United States."

The United States Constitution provides in part:

Article I, Section 1: "All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

Article I, Section 8: "The Congress shall have Power. . .[t]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all

other Powers vested by this Constitution in the Government of the United States, or in any Department or Officer thereof."

U.S.C.A Const. Amend. XIV § states:

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

Connecticut General Statutes Section 31-294f(a) (CGSA § 31-294f) provides in relevant part:

"An injured employee shall submit himself to examination by a reputable practicing physician or surgeon, at any time while claiming or receiving compensation, upon the reasonable request fo the employer or at the direction of the commissioner. The examination shall be performed to determine the nature of the injury and the incapacity resulting from the injury. The physician or surgeon shall be selected by the employer from an approved list of physicians and surgeons prepared by the chairman of the Workers Compensation Commission and shall be paid by the employer. ."

Connecticut General Statutes Section 31-275 (CGSA § 31-275) in relevant part defines a Physician to include: